



GREY AREAS OF CATASTROPHIC IMPAIRMENT

Prepared by Dr. Harold Becker
Omega Medical Associates

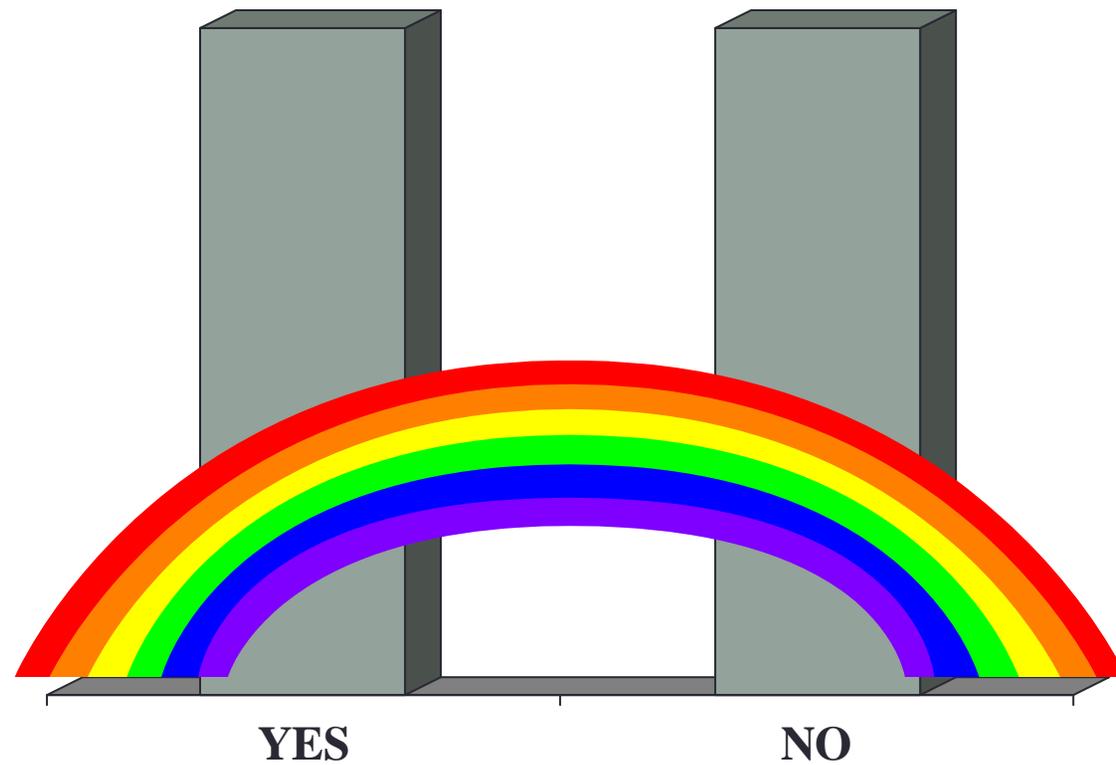
Presented by Sloan H. Mandel
Partner, Thomson, Rogers

June 13, 2013

The Catastrophic Paradigm



The Catastrophic Paradigm





Dr. Becker's Top Ten CAT Pearls

The AMA Guides rates **Impairment** and not Diagnosis. The Guides defines impairment as **Loss of Function**.

- The Guides parallels the WHO in defining an impairment as “any loss or abnormality of a psychological, physiological or anatomical structure or function”



Impairments are expressed as
Anatomical, Functional or Diagnostic
models

- a) Anatomic = amputation tables
- b) Function = Range of Movement tables
- c) Diagnosis = DRE (Diagnosis Related Estimate) tables



AMA Guides Impairment ratings primarily address ability to do ADL's.

- ADL's defined on page 1/1 and 14/294



Impairments are typically divided into Mild, Moderate and Marked categories.

-
- Mild = 1-14% WPI
 - Moderate = 15-29% WPI
 - Marked = 30-49% WPI

55% WPI obtained by combining, not adding impairment scores according to the Combined Values Chart on page 322.

$$[10+10]= 19$$

Mental and Behavioural impairment
(Chapter 14) examines ability to function
under 4 parameters only

1. **ADL's**
2. **Social Interaction**
3. **Concentration, Persistence and Pace**
4. **Adaptation to Work-Like Settings**
(interpreted as ability to deal with stress
and unexpected changes rather than
work (dis)ability.)

Ordinal (Mild, Moderate , Marked, Extreme) ratings
in Mental and Behavioural impairment
(Chapter 14) refer to:

- **Mild = Impairment compatible with *most* useful functioning**
- **Moderate = Impairment compatible with *some but not all* useful functioning**
- **Marked = Impairment *significantly impedes* useful functioning**
- **Extreme = Impairment *precludes* useful functioning**



Threshold for Catastrophic Mental and behavioural impairment is 1 Marked impairment

Pastore v Aviva FSCO arbitration - February 2009

Aviva v Pastore FSCO appeal - December 2009

Aviva v Pastore Divisional Court - May 2011

Pastore v Aviva ONCA - September 2012



To obtain Whole Person Impairment scores from Chapter 14, you can:

-
1. use the rating conversion of Table 3, page 142. This is the *Desbiens*-referenced table
 2. use the Global Assessment of Function (GAF) “California Method” [*Schedule for Rating Permanent Disabilities* under the Provisions of the Labor Code of the State of California, January 2005, pages 1-12 to 1-16] – gives same ratings.

Table 3. Emotional or Behavioral Impairments.

Impairment description	% Impairment of the whole person
Mild limitation of daily social and interpersonal functioning	0 - 14
Moderate limitation of <i>some</i> but not all social and interpersonal daily living functions	15 - 29
Severe limitation impeding useful action in <i>almost all</i> social and interpersonal daily functions	30 - 49
<i>Severe limitation of all daily functions</i> requiring total dependence on another person	50 - 70

- **91 - 100** No symptoms. Superior functioning in a wide range of activities, life's problems never seem to get out of hand, is sought out by others because of his or her many positive qualities.
- **81 - 90** Absent or minimal symptoms (e.g., mild anxiety before an exam), good functioning in all areas, interested and involved in a wide range of activities, socially effective, generally satisfied with life, no more than everyday problems or concerns (e.g., an occasional argument with family members).
- **71 - 80** If symptoms are present, they are transient and expectable reactions to psychosocial stressors (e.g., difficulty concentrating after family argument); no more than slight impairment in social, occupational, or school functioning (e.g., temporarily falling behind in schoolwork).
- **61 - 70** **Some mild symptoms (e.g., depressed mood and mild insomnia) or some difficulty in social, occupational, or school functioning (e.g., occasional truancy, or theft within the household), but generally functioning pretty well, has some meaningful interpersonal relationships.**
- **51 - 60** **Moderate symptoms (e.g., flat affect and circumstantial speech, occasional panic attacks) or moderate difficulty in social, occupational, or school functioning (e.g., few friends, conflicts with peers or co-workers).**
- **41 - 50** **Serious symptoms (e.g., suicidal ideation, severe obsessional rituals, frequent shoplifting) or any serious impairment in social, occupational, or school functioning (e.g., no friends, unable to keep a job).**
- **31 - 40** Some impairment in reality testing or communication (e.g., speech is at times illogical, obscure, or irrelevant) or major impairment in several areas, such as work or school, family relations, judgment, thinking, or mood (e.g., depressed adult avoids friends, neglects family, and is unable to work; child frequently beats up younger children, is defiant at home, and is failing at school).
- **21 - 30** Behavior is considerably influenced by delusions or hallucinations or serious impairment, in communication or judgment (e.g., sometimes incoherent, acts grossly inappropriately, suicidal preoccupation) or inability to function in almost all areas (e.g., stays in bed all day, no job, home, or friends)
- **11 - 20** Some danger of hurting self or others (e.g., suicide attempts without clear expectation of death; frequently violent; manic excitement) or occasionally fails to maintain minimal personal hygiene (e.g., smears feces) or gross impairment in communication (e.g., largely incoherent or mute).
- **1 - 10** Persistent danger of severely hurting self or others (e.g., recurrent violence) or persistent inability to maintain minimal personal hygiene or serious suicidal act with clear expectation of death.

- **“Top Ten Tables” in the 4th edition...**

1. Mental Status Table 2 page 142
2. Emotional/Behavioural Table 3 page 142
3. Skin Disorders Table page 280
4. Mental/Behavioural (Chapter 14) Table p 301
5. Spinal Cord Tables page 110-111 + text
6. Gait Derangement Table page 76
7. Bladder Disorders page 254
8. Vestibular impairment page 228-229
9. Sleep Disorders Table page 143
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Table 2. Mental Status Impairments.

Impairment description	% Impairment of the whole person
Impairment exists, but ability remains to perform satisfactorily most activities of daily living	1 - 14
Impairment requires direction and supervision of daily living activities	15 - 29
Impairment requires directed care under continued supervision and confinement in home or other facility	30 - 49
Individual is unable without supervision to care for self and be safe in any situation	50 - 70

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Table 2. Impairment Classes and Percents for Skin Disorders*

Class 1: 0%-9% impairment	Class 2: 10%-24% impairment	Class 3: 25%-54% impairment	Class 4: 55%-84% impairment	Class 5: 85%-95% impairment
<p>Signs and symptoms of skin disorder are present or only intermittently present;</p> <p>and</p> <p>There is no limitation or limitation in the performance of <i>few</i> activities of daily living, although exposure to certain chemical or physical agents might increase limitation temporarily;</p> <p>and</p> <p>No treatment or intermittent treatment is required.</p>	<p>Signs and symptoms of skin disorder are present or intermittently present;</p> <p>and</p> <p>There is limitation in the performance of <i>some</i> of the activities of daily living;</p> <p>and</p> <p>Intermittent to constant treatment may be required.</p>	<p>Signs and symptoms of skin disorder are present or intermittently present;</p> <p>and</p> <p>There is limitation in the performance of <i>many</i> of the activities of daily living;</p> <p>and</p> <p>Intermittent to constant treatment may be required.</p>	<p>Signs and symptoms of skin disorder are <i>constantly</i> present;</p> <p>and</p> <p>There is limitation in the performance of <i>many</i> of the activities of daily living that may include intermittent confinement at home or other domicile;</p> <p>and</p> <p>Intermittent to constant treatment may be required.</p>	<p>Signs and symptoms of skin disorder are <i>constantly</i> present;</p> <p>and</p> <p>There is limitation in the performance of <i>most</i> of the activities of daily living, including occasional to constant confinement at home or other domicile;</p> <p>and</p> <p>Intermittent to constant treatment may be required.</p>

*The signs and symptoms of disorders in classes 1 and 2 may be intermittent and not present at the time of examination. The impact of the skin disorder on daily activities should be the primary consideration in determining the class of impairment. The frequency and intensity of signs and symptoms and the frequency and complexity of medical treatment should guide the selection of an appropriate impairment percentage and estimate within any class (see chapter introduction).

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Table. Classification of Impairments Due to Mental and Behavioral Disorders.

Area or aspect of functioning	Class 1: No impairment	Class 2: Mild impairment	Class 3: Moderate impairment	Class 4: Marked impairment	Class 5: Extreme impairment
Activities of daily living Social functioning Concentration Adaptation	No impairment is noted	Impairment levels are compatible with <i>most</i> useful functioning	Impairment levels are compatible with <i>some</i> , but not all, useful functioning	Impairment levels <i>significantly impede</i> useful functioning	<i>Impairment levels preclude</i> useful functioning

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Table 72. DRE Lumbosacral Spine Impairment Categories.

DRE impairment category	Description	% Impairment of the whole person
I	Complaints or symptoms	0
II	Minor impairment: clinical signs of lumbar injury are present without radiculopathy or loss of motion segment integrity	5
III	Radiculopathy: evidence of radiculopathy is present	10
IV	Loss of motion segment integrity: criteria for this condition are described in Section 3.3b, p. 95	20
V	Radiculopathy and loss of motion segment integrity	25
VI	Cauda equina-like syndrome <i>without</i> bowel or bladder impairment	40
VII	Cauda equina syndrome <i>with</i> bowel or bladder impairment	60
VIII	Paraplegia	75

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Table 36. Lower Limb Impairment from Gait Derangement.

Severity	Patient's signs	Whole-person impairment (%)
Mild	a. Antalgic limp with shortened stance phase and documented moderate to advanced arthritic changes of hip, knee, or ankle	7
	b. Positive Trendelenberg sign and moderate to advanced osteoarthritis of hip	10
	c. Same as category a or b above, but patient requires part-time use of cane or crutch for distance walking but not usually at home or in workplace	15
	d. Requires routine use of short leg brace (ankle-foot orthosis [AFO])	15
Moderate	e. Requires routine use of cane, crutch, or long leg brace (knee-ankle-foot orthosis [KAFO])	20
	f. Requires routine use of cane or crutch <i>and</i> a short leg brace (AFO)	30
	g. Requires routine use of two canes or two crutches	40
Severe	h. Requires routine use of two canes or two crutches <i>and</i> a short leg brace (AFO)	50
	i. Requires routine use of two canes or two crutches <i>and</i> a long leg brace (KAFO)	60
	j. Requires routine use of two canes or two crutches <i>and</i> two lower-extremity braces (either AFOs or KAFOs)	70
	k. Wheelchair dependent	80

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**Class 1: Impairment of the Whole Person,
0% to 15%**

A patient belongs in class 1 when the patient has symptoms and signs of bladder disorder requiring intermittent treatment and normal functioning between the episodes of malfunctioning.

**Class 2: Impairment of the Whole Person,
15% to 25%**

A patient belongs in class 2 when (1) there are symptoms or signs of a bladder disorder requiring continuous treatment; *or* (2) there is good bladder reflex activity, that is, storage of urine, but no voluntary control.

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Class 2: Impairment of the Whole Person, 1% to 10%.

A patient belongs in class 2 when (a) signs of dysequilibrium are present with supporting objective findings *and* (b) the usual activities of daily living are performed without assistance, except for complex activities such as bicycle riding or certain types of demanding activities related to the patient's work, such as walking on girders or scaffolds.

Class 3: Impairment of the Whole Person, 10% to 30%.

A patient belongs in class 3 when (a) signs of vestibular dysequilibrium are present with supporting objective findings *and* (b) the patient's usual activities of daily living cannot be performed without assistance, except for such simple activities as self-care, some household duties, walking, and riding in a motor vehicle operated by another person.

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Table 6. Impairment Criteria for Sleep and Arousal Disorders.

Description	% Impairment of the whole person
Reduced daytime alertness with sleep pattern such that patient can carry out most daily activities	1 - 9
Reduced daytime alertness requiring some supervision in carrying out daytime activities	10 - 19
Reduced daytime alertness that significantly limits daily activities and requires supervision by caretakers	20 - 39
Severe reduction of daytime alertness that causes the patient to be unable to care for self in any situation or manner	40 - 60

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Determining Impairment

Impairment related to headache pain should be estimated according to the procedures described in Section 15.8 (p. 309) for evaluating other types of pain. It is important to remember that assessing *permanent* impairment refers to assessing a condition that is stable and unlikely to change in future months despite medical or surgical therapy. The vast majority of patients with headache will not have permanent impairments.





Dr. Harold Becker & the Omega Medical Team



Contact the Omega team for a file consultation
416-489-0711 www.omegamedical.ca